

REMARKS

This amendment is responsive to the Final Office Action of May 11, 2010. Reconsideration and allowance of claims 1-28 are requested.

The Office Action

Claims 1-11 and 25-27 stand rejected under 35 U.S.C. § 101.

Claims 1-28 stand rejected under 35 U.S.C. § 102 over the newly cited patent of Cooke (US 6,574,629).

**The Present Amendment
Should Be Entered**

The present amendment should be entered as reducing the issues on appeal. Specifically, the present amendment amends the claims to resolve the 35 U.S.C. § 101 issues raised by the Examiner and other issues of a 35 U.S.C. § 101 or 35 U.S.C. § 112, second paragraph, nature not raised by the Examiner. It is submitted that entry of the present amendment will eliminate 35 U.S.C. § 101 and 35 U.S.C. § 112 issues on appeal.

The claims are not amended in a manner which would require further search or consideration.

It is submitted that the Finality of the Office Action is premature because the Office Action of May 11, 2010 is *a first Office Action* following a remand by the Board. The Examiner made a new ground of rejection in the Examiner's Answer. Because the application remained on the docket of the Board of Appeals following the applicant's February 9, 2009 response, it is submitted that the applicant's February 9, 2009 response was accepted in the nature of a Reply Brief. Prosecution on the merits was reopened by the Board on February 17, 2010. The Office Action of May 11, 2010 is the first Office Action on the merits following reopening of prosecution.

Finally, the present amendment should be entered as placing the application in condition for allowance for the reasons set forth below.

**The Claims Distinguish Patentably
Over the References of Record**

Claim 1 calls for, during the merging, reconciling the first and second collection identifiers. The Examiner directs the applicant's attention to column 8, lines 38-40 and column 11, lines 41-54 of Cooke. Column 8, lines 38-46 do not address identifiers. Column 11, lines 41-54 indicate that a user may manually enter a unique identifier in order to retrieve a corresponding study or group of studies. However, this section does not address reconciling identifiers.

Further, claim 1 calls for the identifiers to be reconciled with a computer. By contrast, in column 11, lines 41-54 of Cooke, the identifier is used manually in order to retrieve the corresponding study. Again, there is no computer-implemented reconciliation of identifiers.

Accordingly it is submitted that **claim 1** and **claims 2-8 and 27** dependent therefrom are not anticipated by Cooke.

Claim 6 further addresses the identifiers. Again, column 8, lines 38-46 of Cooke do not address identifiers. Column 11, line 55 – column 12, line 6 also do not address identifiers. Accordingly, it is submitted that claim 6 is not anticipated by Cooke.

Claim 9 has been amended to correct an antecedent basis issue in line 14 and to reconcile a difference in language usage ("distinct" versus "unique") between claim 9 and the specification, and to place the distinct/unique requirement in a more logical location which does not raise antecedent basis issues.

Claim 9 calls for deleting the study identifier for one of the first and second studies. The Examiner refers the applicant to column 9, lines 22-42 of Cooke. This section of Cooke addresses removing information which has been archived from a workstation memory in order to keep the memory from overflowing. This section does not address study identifiers.

Accordingly, it is submitted that **claim 9** and **claims 10 and 11** dependent therefrom are not anticipated by Cooke.

Claim 12 calls for a computer to be controlled to identify a patient's first collection of medical information with a first identifier and a logically related or similar second collection of medical information with a second collection identifier, and while the collections are being merged, for the computer to reconcile the first and

second collection identifiers. The Examiner refers the applicant to column 5, line 66 – column 6, line 4; column 8, lines 38-46; column 11, line 41 – column 12, line 6; and column 29, lines 4-55. Column 5, line 66 – column 6, line 4 do not address collection identifiers. Column 8, lines 38-46, as discussed above, do not address study identifiers.

Column 11, lines 41-54 do mention an identifier, but in conjunction with a manual operation of retrieving a selected patient's prior study. Column 11, line 55 – column 12, line 6 do not address study identifiers. Rather, this section lists various types of studies, addresses viewing options, and navigating through the database.

Column 29, lines 4-55 describe how a user manually assembles a report using functions such as point, click, and toggle to assemble the desired information into the report. This section of Cooke does not address reconciling collection identifiers.

Accordingly, it is submitted that **claim 12** and **claims 13-21 and 28** dependent therefrom are not anticipated by Cooke.

Claim 22, which the Examiner asserts includes the same limitations as claim 9, has already been amended to correct the inconsistent terminology which was not corrected in claim 9 until the present amendment. Claim 22 calls for a computer to perform the acts of merging, saving identifiers, and deleting at least one of the first and second study identifiers. Cooke, at column 8, lines 38-46, does not address identifiers. Cooke, at column 9, lines 41-54, describes a manual process, not computer-performed acts. Column 11, line 41 – column 12, line 6 describes manual or human operation, not computer-performed acts. Column 21, lines 24-33 describe merging studies *with matching patient IDs*. If the Examiner is considering the patient IDs to be the study identifiers, deleting this information would be contrary to the fair teachings of Cooke. Column 9, lines 22-43 address removing files and information from a workstation memory when they are no longer needed to keep the memory from overflowing. This section does not address deleting a patient ID or other study identifier.

Accordingly, it is submitted that **claim 22** and **claims 23-24** dependent therefrom are not anticipated by Cooke.

Claim 25 addresses merging first and second medical studies, the first and second studies having first and second identifiers. The second medical study including at least an artifact with an artifact identifier. The Examiner refers the applicant to column 8, lines 38-46; column 11, line 41 – column 12, line 6, and column 29, lines 4-55. None of these sections disclose, describe, teach, or fairly suggest an artifact identifier, much less the computer-implemented merging technique which merges and modifies the various identifiers. The referenced sections of Cooke relate primarily to manual navigation and report generation.

Accordingly, it is submitted that **claim 25** and **claim 26** dependent therefrom are not anticipated by Cooke.

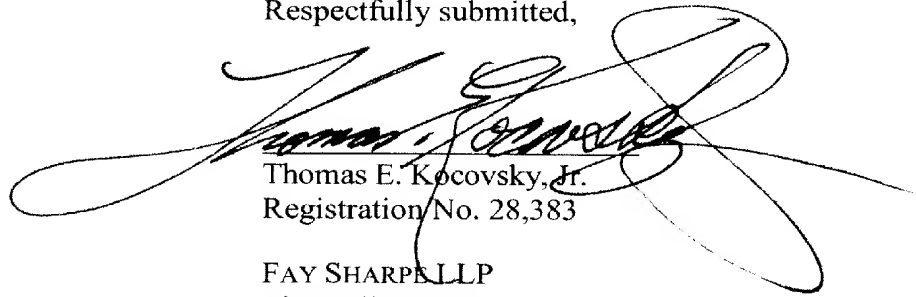
35 U.S.C. § 101

The claims have been carefully amended to address each of the Examiner's 35 U.S.C. § 101 issues.

CONCLUSION

For the reasons set forth above, it is submitted that claims 1-28 are not anticipated by Cooke, distinguish patentably over the references of record, and meet the other statutory requirements. An early allowance of all claims is requested.

Respectfully submitted,

A large, stylized handwritten signature in black ink, which appears to read "Thomas E. Kocovsky, Jr.", is written over the typed name and registration number.

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